IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10146 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RABARI RAJUBHAI KAMABHAI

Versus

DISTRICT MAGISTRATE

Appearance:

1. Special Civil Application No. 10146 of 2002

MS DR KACHHAVAH for Petitioner No. 1

MR KAMLESH KACHHAVAH for Petitioner No. 1

MR MK PATEL, AGP for Respondent No. 1-3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 28/02/2003

ORAL JUDGEMENT

#. By filing this petition, the petitioner-detenu has

challenged his detention order dated 21.5.2002. By the impugned order, the petitioner-detenu is detained in exercise of the powers under section 3(2) of the Gujarat Prevention of Antisocial Activities Act,1985 (hereinafter referred to as "the PASA" for short), as, the detaining authority found that the detenu is a "dangerous person" and is required to be detained under the preventive detention, so that, he may not continue with such type of illegal activities.

#. Along with the detention order, the detenu was also served with the grounds of detention. In the said grounds, there is a reference of five criminal cases, which are filed against the petitioner under various provisions of the Indian Penal Code. The petitioner was released on bail in all the aforesaid cases. There is also a reference of the statements of some witnesses in the detention order. The said order is challenged by the petitioner on various grounds.

#. At the time of hearing of this petition, the learned advocate for the petitioner firstly argued that, the last case registered against the petitioner is dated 22.3.2002, yet the detention order is passed at the later stage, i.e. on 21.5.2002. It is submitted that in view of the delay in passing the detention order from the date of the alleged incident, the order of detention is required to be quashed and set aside. She also submitted that the statements of witnesses were also recorded at a later point of time. It is argued that, some of the documents supplied to the petitioner are absolutely illegible and reference in this connection is made to the documents at pages 87, 89 and 91 as well as some other documents annexed with petition.

#. Mr.Patel, learned AGP, also submitted that some of the documents are very faint and it is impossible to read certain documents even with extra efforts. The authority is required to give, at least, legible copies to the detenu, as, such copies are required to be given for the purpose of reading it and making the representation on the basis of such documents and giving of such copies is not mechanical exercise of the powers. It is hoped that, in future, the authority will supply legible copies and if not typed copies, even, at least, copies of handwriting which one can read and at least one to whom it is given for the purpose of making the representation.

#. In view of the fact that some copies are not legible and absolutely illegible and faint, the order of detention is required to be quashed and set aside, as,

the right of the petitioner to make effective representation is lost by not supplying the legible documents. In that view of the matter, the petition is allowed. The order of detention dated 21.5.2002 is quashed and set aside. The detenu Rabari Rajubhai Kamabhai is ordered to be set at liberty forthwith if he is not required in connection with any other case. Rule is made absolute accordingly.

(P.B.Majmudar,J)
(pathan)